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BY ECF

The Honorable Colleen McMahon
 United States District Court
 Southern District of New York
 500 Pearl Street
 New York, NY 10007

Re: *United States v. Connolly, et al.*, S1 16 CR 370 (CM)

Dear Chief Judge McMahon:

MEMO ENDORSED

We write in response to Defendant Gavin Black's letter motion of February 2, 2018 to the Court, requesting that the Court order the government to produce Jencks Act material by February 8, 2018, roughly three weeks in advance of the February 28, 2018 *Kastigar* hearing.

The Court should deny the defendant's request. In response to the Court's December 22, 2017 Order, the government has been working diligently to locate, review, and compile for production additional responsive materials beyond those already produced to the defense. This has required extensive review of thousands of emails from the declarants (in addition to those already reviewed in the context of the government's *Brady*, *Giglio*, and Rule 16 discovery obligations) to search for potential Jencks Act material, as defined by the Court in its Order. Although we believe that the defendant has already received the vast majority of discoverable material to which he is entitled in the context of the *Kastigar* hearing, the government is exercising all due diligence to ensure full compliance with the Court's Order and with the government's discovery obligations.

The government had previously communicated to defense counsel that it was working diligently and would produce responsive Jencks Act material as soon as was practicable. Currently, the government's best estimate is that it will be able to produce responsive Jencks Act material on or before February 14, which is two weeks in advance of the hearing. Although it is difficult to precisely estimate the size of the production, the government anticipates that it will be relatively modest, such that the defense will have no difficulty adequately preparing for the February 28 hearing. Should the government be unable to produce all Jencks Act material on or before February 14, we would communicate that to defense counsel and would produce everything that we were able to produce on that date.

For the foregoing reasons, we respectfully request that the Court deny the defendant's motion, and permit the government to proceed as outlined above.

Respectfully submitted,

/s/ D. Brittain Shaw
D. BRITTAIN SHAW
CHRISTOPHER D. JACKSON
JESSEE C. ALEXANDER-HOEPPNER
Trial Attorneys
Criminal Division, Fraud Section
U.S. Department of Justice

CC (via ECF): Counsel for Matthew Connolly and Gavin Black